

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

No. 4:19-cr-672-DPM

JUSTIN DEQUIZE PRESTON

DEFENDANT

ORDER

The Court invited the parties to file supplemental briefs on the vehicle search. With the benefit of additional argument, *Doc. 95*, the Court can rule on the remaining motion to suppress without a hearing.

It's not clear from the record whether the pistol was discovered because of a warrantless search. *Doc. 93 at 3-4*. But even assuming it was not in plain view, it would have been inevitably discovered by lawful means. *United States v. Alvarez-Gonzalez*, 319 F.3d 1070, 1072 (8th Cir. 2003). Preston led law enforcement officers on a high-speed chase at night through a residential neighborhood. He crashed his car on private property and was immediately detained. He was arrested and charged with felony fleeing. *Doc. 91-1*; *see also* Criminal Information in *Arkansas v. Preston*, No. 35CR-19-677 (Jefferson County Circuit Court).^{*} Under the Arkansas State Police's inventory policy, an officer can direct that a vehicle be towed because of an arrest, or for

^{*}The Court takes judicial notice. FED. R. EVID. 201(b)(2).

other good cause. *Doc. 91-3 at 1*. It also provides that the officer shall conduct an administrative inventory of any towed vehicle. The entire vehicle must be inspected and inventoried. *Doc. 91-3*. There is, therefore, a reasonable probability that the gun would have been discovered absent any potential police misconduct. And the law enforcement officers were actively pursuing an alternative line of investigation when the gun was discovered: they were arresting Preston for felony fleeing. *United States v. Baez*, 983 F.3d 1029, 1039-40 (8th Cir. 2020).

For these reasons, Preston's remaining motion to suppress, *Doc. 76*, is denied.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

16 November 2022